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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION ATHLETIC
GRANT-IN-AID CAP ANTITRUST
LITIGATION

) **Case No. 4:14-md-02541-CW**
) **Case No. 4:14-cv-02758-CW**
)
)
)

) **JOINT SUBMISSION ON PROPOSED**
) **BRIEFING SCHEDULES FOR THE RULE**
) **23(b)(3) MOTION, DEADLINES FOR**
) **DISCOVERY, EXPERT DISCOVERY AND**
SUMMARY JUDGMENT MOTIONS

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Pursuant to the Minute Order entered in the above-referenced actions on October 1, 2015, counsel for all parties submit the following Proposed Briefing Schedules for the Rule 23(b)(3) motion, as well as deadlines for discovery, expert discovery and summary judgment motions.

Item	Plaintiffs' Proposed Timing	Defendants' Proposed Timing
Plaintiffs' Motion for Damages Class Certification	Due February 15, 2016 (4 months from today)	Due February 15, 2016 (4 months from today)
Defendants' Opposition to Plaintiffs' Motion for Damages Class Certification	Due April 15, 2016 (60 days after filing of opening Motion)	Due June 14, 2016 (120 days after filing of opening Motion)
Plaintiffs' Reply in Support of Motion for Damages Class Certification	Due May 15, 2016 (30 days after filing of Opposition)	Due August 15, 2016 (60 days after filing of Opposition)
Complete non-class-related document production		120 days after the resolution of Plaintiffs' Rule 23(b)(3) motion
Complete fact depositions		Commence upon the substantial completion of document production and shall be completed within 180 days following their commencement
Close of Fact Discovery	June 15, 2016 (8 months from today)	
Exchange Rule 26(a)(2) expert disclosures		30 days after the completion of fact depositions
Merits Expert Reports Due	July 15, 2016 (Due 30 days after close of fact discovery) (Plaintiffs assert that this includes Defendants filing affirmative expert reports regarding any proffered procompetitive justifications for the restraints at issue because Defendants bear the burden of proof for such justifications)	60 days after the exchange of expert disclosures
Rebuttal Merits Expert Reports	September 15, 2016 (Due 60 days after initial Merits Reports due)	90 days after the affirmative reports
Deadline for Completion of Expert Discovery	October 1, 2016 (Due 15 days after rebuttal Merits Reports are filed)	30 days after the rebuttal expert reports are filed
Dispositive Motions	November 15, 2016 (Due 45 days after close of expert discovery)	60 days after the close of expert discovery
Oppositions to Dispositive Motions	December 15, 2016 (Due 30 days after filing of opening motions)	60 days after dispositive motions are filed
Replies in Support of Dispositive Motions	January 5, 2017 (Due 21 days after Oppositions filed)	30 days after responses are filed

PLAINTIFFS' POSITION

Plaintiffs believe that their proposed schedule is an efficient way to get this case to trial in a reasonable time frame. We are confident that all counsel can work together to meet our proposed deadlines.

DEFENDANTS' POSITION

Explanation of Defendants' Proposed Briefing Schedule for Rule 23(b)(3) Motion:

Defendants' accept Plaintiffs' proposal that their motion for certification of a Rule 23(b)(3) damages class should be filed within 120 days from today. During that 120-day period, Plaintiffs will conduct discovery targeted at information necessary for the filing of their class certification motion, develop their expert report(s) and prepare their brief in support of the motion.

Defendants propose that they have a comparable amount of time to prepare their opposition. During that 120-period, Defendants will conduct discovery targeted at information necessary for their opposition to the class certification motion, including the taking of the depositions of any proposed representative Plaintiffs who were not previously deposed in connection with Plaintiffs' Rule 23(b)(2) motion and depositions of Plaintiffs' Rule 23(b)(3) expert(s), develop their expert report(s) and prepare their brief in opposition to the motion. In light of the difficulties the parties encountered in scheduling the depositions of Plaintiffs' Rule 23(b)(2) class representatives, which required several extensions of the Rule 23(b)(2) briefing schedule, as well as the time required to prepare Defendants' own expert report(s) and opposition papers to the Rule 23(b)(3) motion, Defendants do not believe that the 60 days proposed by Plaintiffs for Defendants' opposition to their motion is sufficient. Plaintiffs have had all the time since the commencement of the actions within which to develop their strategy, work with their experts, and determine the proposed class-wide damages methodology by which they hope to comply with the requirements for certification of a damages class. Defendants will not have that information until Plaintiffs file their motion, and will have to develop their opposition for the most part starting at that time.

Explanation of Defendants' Proposed Deadlines for Discovery, Merits Experts and

Summary Judgment Motions: Defendants agree that the parties will continue to work on general merits discovery during briefing of the Rule 23(b)(3) motion; however, given the significant

1 amount of document discovery Plaintiffs have requested and the over 100 witnesses identified in
2 Plaintiffs' initial disclosures, completion of document discovery and fact depositions within an 8-
3 month period, running concurrently with the Rule 23(b)(3) motion schedule, as proposed by
4 Plaintiffs, is unrealistic. The scope of the merits discovery in this case, including merits expert
5 reports and discovery, as well as discovery relating to possible damages, will largely be determined
6 by this Court's decision on the Rule 23(b)(3) motion and whether Plaintiffs in this class are
7 representing classes of thousands of student-athletes or are representing only themselves. It would
8 therefore be wasteful of the resources of the parties and the Court for the merits discovery to
9 proceed to conclusion before the resolution of the Rule 23(b)(3) motion. For that reason,
10 Defendants believe that their proposed schedule is the more efficient way to get this case to trial in
11 a reasonable time frame. Defendants also believe that, if specific issues arise relating to the
12 conduct of merits discovery, Plaintiffs and Defendants can work with Magistrate Judge Cousins to
13 resolve them.

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18 ECF ATTESTATION

19 Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in
20 the filing of this document has been obtained from each of the other signatories above.

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